

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL ACTION NO.
)	2:07cr61-MHT
NUKAK EFFIONG ASANANSI)	(WO)

OPINION AND ORDER

This cause is before the court on defendant Nukak Effiong Asanansi's unopposed motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for August 24, 2009, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the sound discretion of the trial judge, United States v. Stitzer, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an

offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

Id. § 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." Id. § 3161(h)(7)(A). In granting such a continuance, the court shall consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Id. § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Asanansi in a speedy trial. Counsel for Asanansi represents that Asanansi has been given until July 24, 2009, to secure payment necessary to

retain counsel's services. After that time, counsel and Asanansi must begin review of the case, which includes over 4,000 pages of discovery. The government does not oppose a continuance for the purpose of counsel and the defendant reviewing the discovery in preparation for trial.

Accordingly, it is ORDERED as follows:

(1) Defendant Nukak Effiong Asanansi's motion for continuance (Doc. No. 348) is granted.

(2) The jury selection and trial, now set for August 24, 2009, are reset for October 26, 2009, at 10:00 a.m., at the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 21st day of July, 2009.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE